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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,684	12/26/2001	Esther Wessels	P 290427 3711US/CNT1	6038

909 7590 08/15/2002  
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EXAMINER

RAJGURU, UMAKANT K

ART UNIT	PAPER NUMBER
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1711

5

DATE MAILED: 08/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

72 5

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-22 is/are pending in the application.
- Of the above claim(s) 12-22 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-22 1-11 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-11, drawn to a polymer composition and an article, classified in class 524, subclass 409.
  - II. Claims 12-22, drawn to a process, classified in class 427, subclass 319.

The inventions are distinct, each from the other because:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process as claimed can be practiced with another materially different product such as an article made out of a different composition.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

2. During a telephone conversation with Richard A. Steinberg on August 7, 2002 a provisional election was made with traverse to prosecute the invention of I, claims 1-11.

Affirmation of this election must be made by applicant in replying to this Office action.

*done  
Jan 21, 2003* Claims 12-22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

It should be noted here that the claim 11, directed to any nominal article, is grouped with claims 1-10 directed to a composition. However if at a later stage claim 11 be amended (or new article claims be added) which recite/s specific article/s, such claim/s will have to be restricted.

3. Claims 1-11 are under examination.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

*Withdrawn  
Jan 22, 2003*

Claim 1 is indefinite because the upper limit of amount of antimony trioxide is not specified.

Claim 4 is indefinite since it is not clear what "essentially halogen-free" means.  
Does it mean 90%, 95% or 99.99% free?

Same is the case with claim 6.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8041291 in view of Andes et al (USP 6280520) and Kehal (USP 6043304) or Gareiss et al (USP 6184282).

(JP '291 is of record on PTO-1449, Paper No. 3.)

JP '291 discloses a composition comprising (A) an epoxy resin, (B) a phenolic curing agent, (C) an inorganic filler, (D) a curing accelerator, (E) carbon black and, (F) antimony trioxide with a mean particle diameter of 0.1-20 microns at 0.2-5 wt %.

JP '291 does not mention melamine cyanurate as a flame retardant and nacreous pigment.

Andes disclose multiplayer pearl luster pigments which are useful in compositions for laser marking (col. 2, lines 43-46).

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*UKR* Kehal and Gareiss disclose compositions containing melamine <sup>cyanurate</sup>~~concrete~~ as a flame retardant.

Hence it would have been obvious to use in the composition of JP '291, the lustrous pigment (of Andes as the filler) and melamine cyanurate (of Kehal or Gareiss) as a flame retardant in order to enhance the brightness of laser-marked portion/s and to achieve flame retardance without evolution of obnoxious halogen vapors.

8. Any inquiry concerning this communication from the examiner should be directed to U.K. Rajguru whose telephone number is 703-308-3224. The examiner can generally be reached on Monday-Friday 9:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 703-308-2462. The fax phone numbers for the organization where this application is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-0661.

*UKR*  
U.K. Rajguru/dh  
August 13, 2002

*Nathan M. Nutter*  
NATHAN M. NUTTER  
PRIMARY EXAMINER  
GROUP 1711